IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 470 of 1982

in

SPECIAL CIVIL APPLICATION No 4541 of 1981

With

CIVIL APPLICATION NO. 5011 of 1982

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

INDRAVADAN C CONTRACTOR

Versus

PRESIDENT,SOMNATH KELAVANI MANDAL

Appearance:

1. LETTERS PATENT APPEAL No. 470 of 1982

NOTICE SERVED for Appellant

RULE SERVED for Respondent No. 1

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT

and

MR.JUSTICE K.A.PUJ

Date of decision: 04/04/2003

ORAL JUDGEMENT

(Per : JUSTICE MR. KA PUJ)

The present Letters Patent Appeal is filed against the order of the learned Single Judge of this Court on 10-12-1982 in Special Civil Application No. 4551 of 1981 whereby dismissing the petitioner's petition seeking the declaration to the effect that the order at Annexure "A" to the petition was null and void and further seeking the relief that the said order should not be enforced against the petitioner.

2. It is the case of the petitioner that the order of relieving the petitioner was contrary to the provisions of the Act and the Rules. It was further contended that the respondent No.1 was not empowered to relieve the petitioner from the duties without assigning any reason or without taking any action. While dismissing the said petition, the learned Single Judge, in his order dated 10-12-1982 had observed that as far as the management of private Primary School is concerned, the relationship between the management on the one hand and the teacher on the other hand is that of master and the servant and no statutory protection applies to a primary teacher was brought to the notice of the Court. The learned Single Judge has also referred to the judgment of this Court in the case of Jayantilal Thakkar vs. State of Gujarat and Ors - 17 GLR Page 461. The learned Single Judge has come to the conclusion that there was no provision in the Primary Education Act regarding the reinstatement of a primary teacher. If the School management terminates the services of a Primary School Teacher otherwise than in accordance with the provisions of Schedule "F", all that can be done is to proceed against the School for derecognition or withdrawal of recognition of the School. It is this order of the learned Single Judge which is under challenge in the present petition.

3. No one appears on behalf of the appellant at the time when the matter is called out. The Special Civil Application was filed in May 1982. The learned Single Judge had dismissed the said petition on 10.12.1982 and this Appeal was filed on 24-12-1982. At the time of admission of this Appeal, no stay was granted. Since the matter is of 1982, this Court is not inclined to adjourn

the matter for want of appearance by the parties or their respective advocates. In any case, we do not find any infirmity in the order passed by the learned Single Judge while dismissing the petition of the appellant original-petitioner. In this view of the matter, the present Letters Patent Appeal is dismissed with no order as to costs.

4. The Civil Application No. 5011 of 1982 shall stand disposed of accordingly.

[J.N. Bhatt, Actg.C.J.]

rmr. [K.A. Puj, J.]